

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1739 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT WATER RESOURCES DEVLOPCORPN LTD.

Versus

ABDUL UMARJI PATEL

Appearance:

MR PARESH UPADHYAY for Petitioner

MR SHAKEEL A QURESHI for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 05/11/98

ORAL JUDGEMENT

RULE. Mr Shakeel A Qureshi, learned Advocate waives service of Rule for respondent No.1.

By way of this Special Civil Application under Article 226 of the Constitution of India, the petitioner, Gujarat Water Resources Development Corporation Ltd. challenged the award passed by the Labour Court, Bharuch

dated 24.7.1997 in Reference LCB 172/90 & LCB 335/87. The necessary ofacts are that the respondent-workman-Abdul Umarji Patel was engaged as Rojmdar Clerk in the year 1981. However, his services were terminated on 5.10.1983 indisregard to the provisions of the Industrial Disputes Act. An industrial dispute was raised and as such the State Government made reference to the Labour Court. The Court found the order of termination as illegal and hence directed for reinstatement with 10% backwages. Mr Paresh Upadhyay, learned Advocate for the petitioner contends that the impugned order of reinstatement is illegal and arbitrary as there is overwhelming material to show that the respondent workman had abandoned the job. It is submitted that the respondent-workman had abandoned the job on 5.10.1983 with a view to run a fair price shop. The learned Advocate has invited my attention to a letter of the Mamlatdar Karjan dated 25.10.83 wherein it is stated that on 1.10.83, the respondent workman had applied for permission to start fair price shop which was granted by the Collector on 4.10.1983. A notice was given to the workman for his absence on 5.10.1983. He was also advised to reporot on duty. Again by letter dated 23.2.1984, giving reference to the earlier letter dated 6.10.83 it was said communicated that the workman has not joined duty and it is understood that he has abandoned the job. Finally, by another letter dated 17.4.1984, the respondent workman was informed that as he has not yet reported on duty, he is treated as "abandoned the job". All these documents were placed before the Labour Court. I am surprised that inspite of such overwhelming evidence which clearly indicates that the workman had abandoned the job, the Labour Court has found it to be a case of termination. The finding of the Labour Court is ex-facie illegal.

2. In view of the aforesaid, this Special Civil Application is allowed. The award dated 24.7.1997 passed by the Labour Court, Bharuch and published on 22.10.1997 are quashed and set aside. Rule made absolute accordingly.

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msp.